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SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/10/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/848;904

Applicant(s)

CHRISTENSEN ET AL.

Examiner

Hung T. Vy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. As of entry of the amendment filed on 02/01/2007, claims 1-21 are pending in this application. Applicant's arguments have been fully considered but they are not persuasive (see response Applicant's arguments below).

**Drawings**

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the version property, dataset, user session, comparator must be shown or the feature(s) canceled from the claim(s). Claim(s) recite(s) an apparatus with structure. No structures had been showed in the drawing. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "said user" renders the claim(s) indefinite because how can the user couple to database via a publicly accessible digital data communication network. The user can use, control something, but user cannot couple to some thing.

Claim 4 recites the limitation "said user" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.

Claims 1-21 are rejected under 35 U.S.C. 101 because the claims are directed to a non-statutory subject matter, specifically, the claims are not directed towards the final result that is "useful, tangible and concrete".

(See State Street, 149 F.3d at 1373-74 USPQ2d at 1601-02).

According to the New Guidelines of October 26, 2005, which states that "A claim limited to a machine or manufacture, which has a practical application, is statutory. In most cases a claim to a specific machine or manufacture will have a practical application. See Alappat, 33 F.3d at 1544, 31 USPQ2d at 1557)... a specific machine to produce a useful, concrete, and tangible result and State Street, 149 F.3d at 1373-74 USPQ2d at 1601-02).

(Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility  
<[http://rs6.net/tn.jsp?t=mdmd7pbab.0.kbg76pbab.p9qiiibab.7440&p=http%3A%2F%2Fwww.uspto.gov%2Fweb%2Foffices%2Fpac%2Fdapp%2Fopla%2Fpreognotice%2Fguidelines101\\_20051026.pdf](http://rs6.net/tn.jsp?t=mdmd7pbab.0.kbg76pbab.p9qiiibab.7440&p=http%3A%2F%2Fwww.uspto.gov%2Fweb%2Foffices%2Fpac%2Fdapp%2Fopla%2Fpreognotice%2Fguidelines101_20051026.pdf)> )

Examiner requests Applicant to include in Applicant's claimed limitations (in all the claims) the following:

What is the practical application?

What is the result?

What is final result that is concrete, useful and tangible?

As in claims 1, 6, and 21, *An apparatus* does not produce a useful, concrete and tangible result as set forth in 2106 (IV)(B)(2)(b)(ii), e.g., *an update facility which updates said version list from said data base if said comparator finds said assumed version property does not equal said version property* (in claim 1, line 8) are not a useful, concrete and tangible result because an apparatus does not provide useful as ***an update facility which updates said version list*** is still unknown if *said comparator does not find said assumed version property does not equal said version property*.

With respect to claim 6, *the method of maintaining synchronization of dataset object properties within a system permitting a plurality of instances of a given object*

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does not produce a useful, concrete and tangible result as set forth in 2106

(IV)(B)(2)(b)(ii), e.g. *updating said version list from said data base if said comparing step determines that said assumed version property is not the same as said version property* is not a tangible result because *updating said version list from said data base if said comparing step determines that said assumed version property is not the same as said version property* is not being used in the method of *maintaining synchronization of dataset object properties within a system permitting a plurality of instances of a given object* (what is being synchronization). The claim invention does not produce a useful because the process does not meet the requirement as recited in the preamble, e.g., *maintaining synchronization of data set*.

With respect to claim 11, and 16, because the “practical application, result, concrete, useful and tangible” limitations are not claimed in Applicant’s claims, Examiner believes that the above listed claims are nonstatutory.

The claims 2-5, 7-10, 12-15 and 17- 20 depend claims 1, 6, 11 and 16, so claims 2-5, 7-10, 12-15 and 17- 20 are nonstatutory.

### **Claim Rejections - 35 USC § 102**

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7, 11-13, 16-18 and 21 are rejected under 35 U. S. C. § 102 (b) as being anticipated by Saether et al. (U.S. Pub. No. 2001/0042073).

With respect to claims 1, 6, 11-12, 16-17 and 21, as best understood, Saether et al. discloses an apparatus and a method of maintaining synchronization of dataset object properties (see abstract) within a system permitting a plurality of instances of a given object comprising: storing a version property (files, names and size, files, store content serve) within a data base containing said dataset object (see paragraph 0008,0009, 0085); preparing a version list (delivery list) (see 0032) associated with a user session containing an assumed version property (current version)(see figs. 1-6); requesting access to said dataset object from said user session (user)(see 0035, 0038,claim 8); comparing said assumed version property (current version) to said version property (see 0049-0050); and updating said version list from said data base if said comparing step determines that said assumed version property is not the same as said version property (see 0049-0067).

With respect to claims 2, 7, Saether et al. discloses a javascript object (see 0084).

With respect to claims 3, Saether et al. discloses plurality of data objects has a separate version property associated therewith (0085 or abstract).

With respect to claims 4-5, 9-10, 13,18, Saether et al. discloses user session (110)) is responsively coupled to said database via a publicly accessible digital data

communication network (see fig. 1) and version properties is stored within said database (server)(see fig. 1).

3. Claims 1-7, 9-13, 16-18 and 21 are rejected under 35 U. S. C. § 102 (e) as being anticipated by Lees et al. (U.S. Pub. No. 2006/0184589).

With respect to claims 1, 6, 11-12, 16-17 and 21, as best understood, Lees et al. discloses an apparatus and a method of maintaining synchronization of dataset object properties within a system permitting a plurality of instances of a given object comprising: storing a version property (attributes) within a data base containing said dataset object (see fig. 4); preparing a version list (attribute list) (see 0050) associated with a user session containing an assumed version property; requesting access to said dataset object from said user session (i.e. administrated updating)(see 0020); comparing said assumed version property to said version property (see 0089 or fig. 12); and updating said version list from said data base if said comparing step determines that said assumed version property is not the same as said version property (see fig. 12).

### **Claim Rejections - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.



Claims 8-10, 14-15, 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saether et al. (U.S. Pub. No. 2001/0042073) in view of Applicant Admitted Prior Art (AAPA).

With respect to claims 8, 14-15, 19-20, Saether et al. discloses all limitations of claimed invention recited in claims 6, 11 and 16 except for version list is stored within a first memory which is faster than a second memory wherein data base is stored and Mapper data base management system. However, AAPA discloses a first memory which is faster than a second memory wherein data base is stored and Mapper data base management system (see page 2-3). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify Saether et al.'s system by using the Mapper data base management system structure in order to have data base management system in an efficient multi-user environment for the stated purpose has been well known in the art as evidenced by teaching of AAPA (see first paragraph, page 2).

With respect to claims 9-10, Saether et al. discloses user session (110)) is responsively coupled to said database via a publicly accessible digital data communication network (see fig. 1) and version properties is stored within said database (server)(see fig. 1).

### **Response to Arguments**

5. Applicant's arguments filed on 02/21/2007 have been fully considered but they are not persuasive. Applicant made the following arguments:

- a. "The Examiner has objected to the drawings as failing to show the claimed "version property", "dataset", "user session", and "comparator" elements. With regard to the claimed "version property", the Examiner is respectfully directed to Fig. 13 and corresponding description in Applicants' specification at page 32, Fig. 9 provides the reader with a "sample dataset" as indicated at page 27, line 1.", paragraph 10, third paragraph.
- b. "Claims 1-21 have been rejected under 35 U.S. C. 101. In response thereto, independent claims 1, 6, 11, 16 and 21 have been amended as suggested by the Examiner" page 11 third paragraphs.
- c. "This basic difference in purpose and objective of Saether and Applicants results in substantial differences in structure as one might suspect. As a result, Saether has no "dataset", "dataset object", "JavaScript object", or "JavaScript dataset object" as claimed. Therefore, to make his rejections, the Examiner improperly paraphrases Applicants' claims rather than addressing the actual claim language utilized by Applicants. This is apparent by addressing Applicants' invention as actually claimed" page 13, second paragraph.
- d. " The second claim element is "a version property associated with one of with plurality of data objects"; again, because Saether does not have the claimed element, the Examiner impermissibly paraphrases "...containing an assumed version property (current version) (see figs. 1-6)". And again, the Examiner cites copious amounts of material (i.e., Figs. 1-6 of 7), no portion of with disclosing the claimed "plurality of data objects" or the claimed "version property associated"

therewith. This is to be expected, because Saether is concerted with software development and maintenance rather than database development and maintenance." Page 14, first paragraph.

e. "The third claimed element is "a session which generates a request involving access to said one of said plurality of data objects". Having no "plurality of data objects", Saether cannot have the claimed "session which generates a request involving access" thereto. Therefore, the Examiner again improperly paraphrases the claim stating: "requesting access to said dataset object from said user session". And again the Examiner cites extensive materials (i.e, paragraphs 0035 and 0038, along with claim 8?) which are totally unrelated to Applicants' claimed element or the Examiner's paraphrase of Applicants' claimed element", page 14, second paragraph.

f. "The fourth claimed element is limited by the claimed "version list" associated with the claimed "session", it cannot have claimed "version list" associated therewith. Thus, The Examiner again attempts to paraphrase the limitation and cites irrelevant material with does not address Application's invention" page 14, last paragraph.

g. "After paraphrasing the fifth and sixth elements, the Examiner cites nearly three columns of irrelevant material. material is legally irrelevant, because it does not address Applicants' claimed invention." Page 15, second paragraph.

h. "Claim 2 and 7 depend from claims 1 and 6, ....the rejection of claims 2 and 7 is respectfully traversed.

The Applicant's argument **a** is not persuasive because the Applicant argued "version property" is directed to Fig. 13 and but the drawing fails to show where is said plurality of data objects that are associated with a version property as claim recited. Further, the claim(s) recite(s) an apparatus or system but there are no drawing to support for claim as an apparatus or the system.

The Applicant's argument **b** is not persuasive because the issues the 101 are still remain. The Update facility with updates said version list is still unknown if said comparing means finds said assumed version property does not equal said version property. Further, claims 1, 11 and 16 recites an apparatus or system, however the components of an apparatus or the system are merely software per se. A system claims much recite physical structure thus enabling it to be properly categorized in one of the statutory categories of invention. Since the components of an apparatus or the system claims 1, 11 and 16 are software per se and do not contain any physical components, the systems cannot be categorized in one of the statutory categories of invention and is thus nonstatutory.

The Applicant's arguments **c** is not persuasive because although the claims are interpreted in light of the specification limitations from the specification are not read in the claims. See *In re Van Genuns*, 988 F. ed. 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The Examiner interprets the claim in broadest term. Saether discloses dataset object, JavaScript object or JavaScript dataset object because Saether discloses the JavaScript (0084). The JavaScript always comes with the environment Object oriented

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so it is inherent that Saether discloses JavaScript Object, the data presents as object.

Also, Saether disclose the database (0048) (i.e. "database"(0048) working in the JavaScript's environment) so this is the dataset.

The Applicant's arguments d is not persuasive because in the broadest interpreted claim, Saether discloses "a pervious version of the set of source files...retrieving each archived object associated with the pervious version of the set of source files form the repository associated with the global server" (0009) so Saether disclose "plurality of data object" (object associated with previous version)(the data represents object). The plurality of data object is the plurality of source file. The claims do not require "for database development and maintenance". What is the different between the database development and maintenance and software development? The claims need recites the limitation that support for the database development and maintenance.

The Applicant's arguments e is not persuasive Saether discloses "the server array controller 105a manages access to the information, e.g., content and applications, on the content server" (0038). The session (i.e., "controller 105a"), which generates a request (i.e., "a server array controller manager a pool of redundant content servers to provide access to requested resources" (0038)) involving access to said one of said plurality of data object (i.e., "resource"(0038)). Saether discloses all limitation of claimed invention.

The Applicant's arguments f is not persuasive because the claim(s) are (is) interpreted with broadest means. The Examiner shows all limitation with respect to the claimed invention. For particular, Saether discloses a version list (i.e., "the version delivery list" (0032)) associated with said session (i.e., "a server array controller manager" (0038)) having assumed version property (i.e., "current version" (0032)). Further, although the claims are interpreted in light of the specification limitations from the specification are not read in the claims. *See In re Van Genuns, 988 F. ed. 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).*

The Applicant's arguments g is not persuasive because the Applicant fails to point out which limitations that Saether does not teaches instead the Applicant's argues the reference is irrelevant material. The reference is proper and relevant material. Further, Saetehr discloses comparing means (i.e., "comparing the name, time stamp and size of each source file on each source server to the current version" (0049)) responsively coupled to said data base (i.e. " the primary global server queries a database" (0048)) which compares for comparing said assumed version property (i.e., "current version" (0049) with said version property; an update facility which updates (i.e., "where the Primary global server generates version delivery list and list of secondary global sever and their respective path" (0054), "the version delivery list indicates the current version, however, it should be appreciated that this list could indicate a previous version of the set of source files" or "where the Primary global server and Secondary global server build a content update container for each local content server that includes that actual file data" (0058)) said version list (i.e., "delivery list"

(0057)) from said data base if said comparator comparing means finds said assumed version property does not equal said version property (i.e., "comparing the name, time stamp and size of each source file on each source server to the current version" (0049)).

The Applicant's arguments h is not persuasive because Saether discloses JavaScript (0084) and in the JavaScript, the object oriented environment, so Saether discloses JavaScript object and object represents the data. The claims do not recites any thing "database development and maintenance". The Applicant's argument about the claim 3, see response d above.

The Applicant's arguments about the claims 4-5, 13 and 18 are not persuasive because Saether discloses "user"/"requesting means" or database (see response above).

The Applicant's arguments about the claims and 8-10 are not persuasive because the rejection of claim 9-10 are reject under Saether et al. (U.S. Pub. No. 2001/0042073) in view of Applicant Admitted Prior Art (AAPA).

The Applicant's arguments about the lee et al. rejection are not persuasive because the Applicant fails to show limitations of claimed invention that Lee that does not teach in Lee's reference instead the Applicant argues Lee is irrelevant material.

The Applicant's argument about the rejection 103 is not persuasive because AAPA disclose on page 2, as "the BIS" data base manager utilized various predefined high level instruction whereby the data base use may manipulate" that means AAPA

discloses various level of speed of access memory. Saether teaches the version list in claim 1.

### **Conclusion**

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

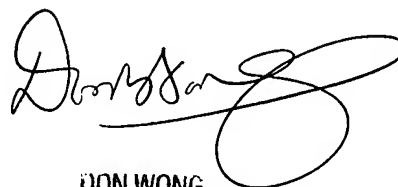
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung T. Vy whose telephone number is 571-2721954. The examiner can normally be reached on 8.30am - 5.30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571 272 1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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April 2, 2007.